HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO. 2420 OF 2005.

Mr.Jameel Abdul Sattar Khan. ...Applicant.

V/s.

The State of Maharashtra. ...Respondent

Shri Kuddus Haviullah, for applicant.

Shri A.S.Gadkari, APP for respondent.

CORAM: A.M.KHANWILKAR,J
DATE : APRIL 12, 2005

P.C. :-

1. Heard the counsel for the parties.

2. Perused the record.

3. Indeed the offence alleged is a serious one. However, I find substance in the submissions canvassed on behalf of the applicant that there is discrepancy in the prosecution case of which applicant ought to be given benefit even at the stage of bail.

4. The prosecution case against the applicant is that he had kept prosecutrix in confinement. This version is however, belied by the version of the prosecution witnesses who have deposed that the

prosecutrix was seen moving freely and was not under confinement. The version that the prosecutrix was subjected to rape during the confinement, therefore, becomes doubtful. The next allegation that the applicant took prosecutrix to one Khairunissa, where she was forced to work as commercial sex worker is not supported by the independent witness. There is substance in the argument of the applicant that if the prosecutrix wanted to travel to native place, where her husband was staying, nothing prevented the prosecutrix to free herself from the applicant and go to her husband's place at Sidharth Nagar.

5. The applicant is married person having responsibility of his family. The applicant is none other than the elder brother of the prosecutrix husband.

6. Taking overall view of the matter, as investigation is completed, chargesheet has been filed, the applicant deserves to be enlarged on bail but by imposing strict conditions.

(i) The applicant is directed to be released on bail in connection with C.R.No.196 of 2004

registered with Shivaji Nagar Police Station, Mumbai, on executing personal bond in the sum of Rs.15,000/-(Rs.fifteen thousand only) with two local sureties in like amount.

(ii) The applicant shall not leave City of Mumbai without prior intimation to the Investigating Officer as well as the trial court.

(iii) The applicant shall report to the Investigating Officer once in a week on Sunday between 10 a.m. to 2 p.m. during pendency of the trial.

(iv) The applicant shall not influence prosecution witness or tamper with prosecution evidence, in any manner, whatsoever.

(v) The applicant shall co-operate for early disposal of the trial as condition for bail. In the event, the trial court is of the opinion that the applicant is responsible for delay in trial, that will be recorded in roznama and that can be the basis for cancellation of bail.